

4.6- SE/11/01572/FUL Date expired 5 January 2012

PROPOSAL: Retention of an existing PVC purpose built room to front of café and store room to the rear.

LOCATION: The Grove Cafe, The Grove, Swanley BR8 8AJ

WARD(S): Swanley Christchurch & Swanley Village

#### **ITEM FOR DECISION**

This application has been referred to Development Control Committee at the request of Councillor Searles as he considers that there are highway issues and that there would be a loss amenities for residents in Sheridan Way by reason of smell and noise.

**RECOMMENDATION:** That planning permission be GRANTED subject to the following conditions:-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The unit shall only be used for A3 use (cafe/restaurant) and for no other purpose (i.e. not a hot food take away).

So any other use can be considered having regard to the amenities of adjacent properties and highway safety as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) The deliveries shall only take place between the hours of 08:00 and 17:00 on any day.

To safeguard the amenities of the occupiers of properties adjacent as supported by Policy EN1 of the Sevenoaks District Local Plan.

4) The use shall only take place between the hours of 08:00 and 17:00 Monday to Friday, between 08:00 and 14:00 Saturday and shall not be open on Sundays or Bank Holidays.

To safeguard the amenities of the occupiers of properties adjacent as supported by Policy EN1 of the Sevenoaks District Local Plan.

5) The car parking and cycle stand shown on the approved drawing BA/11/265/21 shall be provided and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude vehicular access to the car parking and cycle stand.

In the interest of highway safety in accordance with policy EN1 of the Sevenoaks District Local Plan.

6) The development hereby permitted shall be carried out in accordance with the following approved plans BA/11/265/00, BA/11/265/01, BA/11/265/02,

BA/11/265/03, BA/11/265/04, BA/11/265/06, BA/11/265/07, BA/11/265/08,  
BA/11/265/09, BA/11/265/20, BA/11/265/21

For the avoidance of doubt and in the interests of proper planning.

7) No development shall commence until an elevation drawing to a recognised scale of the rear of the building (the south elevation) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with this detail.

In the interest of the visual amenity of the area in accordance with policy EN1 of the Sevenoaks District Local Plan.

8) Within 28 days from the date of this permission, a suitable scheme for the mechanical ventilation of the kitchen area, shall be submitted to and be approved in writing by the Local Planning Authority. The approved system shall be installed and operational before the premises are first brought into use and permanently maintained in full and effective working order at all times. The system shall be used when cooking is being carried out.

To safeguard the amenities of the occupiers of properties adjacent as supported by Policy EN1 of the Sevenoaks District Local Plan.

### Background

- 1 This application was withdrawn from the July committee agenda. Following this concerns were raised by the adjacent landowner that the proposed development has encroached into the industrial land that he owns.
- 2 Land registry plans from the adjacent landowner have now been submitted to the Council in an attempt to support the case for encroachment. It is however impossible from the information submitted to ascertain whether the extension to the café actually does encroach into the adjacent site. (It is however submitted that boundary lines on a typical plan Land Registry plan are a metre on the ground and are merely a guide to the actual legal boundary).
- 3 Legal advice has been sought, and the advice received is that the boundary of a site is a private law matter for the property owners and the exact boundary will very rarely be a material planning issue. The application is valid and can be determined.

### Description of Proposal

- 4 Retrospective planning permission was granted for a café to be erected under application 09/02637/FUL. In November 2010, a complaint was received that the existing café had been extended. A planning application was received in November 2011 (which is now being considered) to regularise the development that had occurred on the site without the benefit of planning permission.
- 5 This application therefore seeks permission for the retention of an existing PVC purpose built room, which is located to the front of the existing café. In addition to this it is also proposed to retain a small storeroom to the rear of the existing café. Although the application was submitted in November 2011, it has been necessary to go back out to consultation with internal and external consultees (Environmental Health and KCC Highways).

- 6 The extension at the front of the existing café measures 4.2 metres by 4.3 metres and is the same height as the existing café building at 2.7 metres. The plans show that the extension would accommodate up to 12 additional tables. The façade of the extension has been constructed from bricks and upvc units. On the side, elevation of the building that fronts the highway is an emergency door.
- 7 In addition to the extension, a rear store has also been built, which measures 1.6 metres by 3.1 metres in size and 2.7 metres in height.

#### Description of Site

- 8 The application site relates to an existing café located at the front of The Grove, which is a newly completed Industrial Estate measuring 0.387 hectares. It comprises 9 new industrial units located in Swanley.
- 9 The site is accessed off a concrete track located off Park Road. To the north of the site is the railway and to the northeast lies Park Road Industrial Estate. To the east of the site, lie a number of residential properties, within Sheridan Close.
- 10 The site is located within the built confines of Swanley.

#### Constraints

- 11 There are no constraints that affect this site

#### Policies

##### *Sevenoaks District Local Plan*

- 12 Policies – EN1, VP1,

##### *Sevenoaks Core Strategy*

- 13 Policy– SP1

#### Planning History

- 14 06/03301/FUL - Demolition of existing buildings and erection of new B1 use industrial units (As amended by revised plans received on 13 March 2007).  
Granted 29 March 2007

09/00520 - Retention of a PVC purpose built room to serve food to Units 1 - 9 and wall and gates at entrance of site. Additional parking & vehicle turning information received 27/08/09. Withdrawn

09/02637/FUL - Retention of a PVC purpose built room to serve food to Units 1 - 9 + extract duct. Wall and gates at entrance of site. GRANT 07/07/2010

#### Consultations

##### *KCC Highway Officer*

- 15 Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters:-

- 16 This proposal amounts to a small front extension to the public area of the existing café unit and a store extension to the rear.
- 17 Whilst there has previously been objection raised on highway grounds to the original café application, it is important to note that this objection related to a number of factors. The first was the lack of evidence at that particular time of the continued ability for vehicles of the required size for an industrial estate site of this nature to access/turn and the potential related impact upon parking that could result should site access for such vehicles be restricted.
- 18 The original proposed café use is now operating and this proposal relating to the building extension is retrospective, resulting in the ability to assess access and related parking issues on site. As a result, it is not apparent that the building in its current form - i.e. complete with the extensions to the site subject to this application proposal, creates any significant additional internal access problems over and above the existing permitted form of the building.
- 19 Furthermore, it is difficult to see the potential for any detrimental safety-related parking impact on or in the vicinity of the public highway occurring as a result of these extensions and whilst issues of on-site amenity parking have been raised locally, these are clearly issues of parking management within the private industrial estate site for which Kent County Council Highways & Transportation would have no remit to justify raising objection - particularly as a local public car park exists near the limit of the public highway adjacent to this industrial estate.
- 20 As such, there are no Kent County Council Highways & Transportation objections to these proposals.

*The Environmental Health Officer has made the following comments:-*

- 21 An operation of this size in this location is likely to have only a limited potential effect on, local residential properties. This may well be able to operate without extensive odour extract and arrestment equipment.
- 22 I would be inclined to accept an extract system with limited odour control facilities. Given the location, I don't think they will cause any problems.

*Swanley Town Council*

- 23 Swanley Town Council objects to this application as it has on all previous occasions.
- 24 This facility causes a loss of amenity for residents due to noise and smell and general disturbance. There has also been an increase in traffic accessing the site and there is insufficient parking on site to accommodate this increase. This has led to increased congestion on the estate and at surrounding businesses
- 25 Swanley already has a high number of eateries, particularly fast food outlets and there is no requirement for any more.
- 26 In addition, the Town Council has concerns regarding the increase of hardstanding at this site as currently there are flooding issues at nearby Sheridan Close caused by rain water run off

- 27 The Town Council has repeatedly reported the illegal signage erected by this site, which is in complete contradiction to the Design and Access Statement published by the applicant, which states the facility is for the use of unit holders on the industrial estate only.
- 28 The Town Council requests that the District Council consider the same course of action taken by Bexley Borough Council, which successfully obtained a confiscation order under the Proceeds of Crime Act 2002 against a resident who flouted planning rules.
- 29 As stated above, this site has continually flouted planning laws.

### Representations

- 30 3 letters of objection has been received in connection with this application. The main issues include the following:-
- Amenity
  - Design, layout and appearance of the proposal
  - No parking
  - Blocking access to A,B,C and D parking areas
  - Road safety
  - Adequacy of infrastructure
  - Economic impact on existing businesses on the estate

### **Chief Planning Officer's Appraisal**

#### Principal Issues

- 31 The determining issues include the following:-
- The impact of the development on the amenities of neighbouring properties
  - Highway Implications of the proposal
  - Impact of the development on the character and amenity of the area
  - Need
  - Access implications

#### *Impact on Amenity of Neighbouring Properties*

- 32 Policy EN1 from the Sevenoaks District Local Plan states that the proposed development including any changes of use should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 33 The nearest residential properties are located to the east of the application site within Sheridan Close. At closest point from the front of the proposed extension, the properties would be approximately 40 metres in distance.

- 34 The previous applicant for the erection of the café confirmed that the premises would be used as a café for staff working on the industrial estate, and that operations would include serving simple meals (chips, bacon, eggs etc). The planning consent that was granted however was for an A3 use, which would potentially allow use of the premises to trade to the wider public and sell a greater variety of food.
- 35 Environmental Health has however advised that an operation of this size in this location is likely to have only a limited potential effect on, local residential properties. In addition to this, they have also confirmed that the unit would be able to operate without extensive odour extract and arrestment equipment. He has however advised that some extract system is required and in view of this I have imposed a condition to seek these details after 28 days of the date of this decision. In this respect, as no objection is raised to the proposed extension, I consider that the proposal would have no adverse impact on the amenities of adjacent properties.
- 36 When the café was originally granted planning permission under application 09/02637/FUL on 7 July 2010, a number of conditions were imposed to reduce the potential for the business to diversify/intensify its activities.
- The deliveries shall only take place between the hours of 08:00 and 17:00 on any day.
  - The use shall only take place between the hours of 08:00 and 17:00 Monday to Friday, between 08:00 and 14:00 Saturday and shall not be open on Sundays or Bank Holidays.
- 37 The reason for both of these conditions was to protect the amenity of adjacent properties.
- 38 In addition to this, the hours were also deemed to ensure that the business would only realistically operate as a café serving the industrial estate. To safeguard the amenity of adjacent properties again, it is considered prudent and necessary to impose these conditions again.
- 39 Given the comments received from Environmental Health in respect of the proposed extension, the unit is considered to comply with policy EN1 of the Sevenoaks District Local Plan.

#### *Highways and Car parking*

- 40 Policy EN1 from the SDLP states, “the proposed development ensures satisfactory means of access for vehicles and pedestrians and provides parking facilities in accordance with the Council’s approved standards”. Policy VP1 from the SDLP also states that development should be determined in accordance with the Kent and Medway Vehicle Parking Standards.
- 41 The Town Council have raised objection to the proposal because they consider that there will be an increase in traffic accessing the site and there is insufficient parking on site to accommodate this increase. In addition to this, they also raise concern that there will be an increase in HGVs to make use of such a facility and thereby will increase congestion on the estate.
- 42 No extra spaces have been put forward to serve the extended café area.

- 43 Whilst there was objection raised on highway grounds to the original café application, this objection was based on a number of factors. The first related to a lack of evidence at that particular time of the continued ability for vehicles of the required size for an industrial estate site of this nature to access/turn and the potential related impact upon parking that could result should site access for such vehicles be restricted.
- 44 The original proposed café use is now operating and this proposal relating to the building extension is retrospective, resulting in the ability to assess access and related parking issues on site. As a result, the Highway Officer has confirmed that it is not apparent that the building in its current form - i.e. complete with the extensions to the site subject to this application proposal, creates any significant additional internal access problems over and above the existing permitted form of the building.
- 45 Furthermore, the Highway Officer has also advised that in his view it is difficult to see the potential for any detrimental safety-related parking impact on or in the vicinity of the public highway occurring as a result of these extensions. Whilst issues of on-site amenity parking have been raised locally, these are clearly issues of parking management within the private industrial estate site for which Kent County Council Highways & Transportation would have no remit to justify raising objection - particularly as a local public car park exists near the limit of the public highway adjacent to this industrial estate.
- 46 As such, there are no Kent County Council Highways & Transportation objections to these proposals.
- 47 As previously identified with the original application approved under application SE/09/02637/FUL proposal does have implications for the planning permission that was approved under SE/06/03301/FUL for the demolition of existing buildings on the site and erection of new B1 industrial units. Under this permission, the following condition was imposed:-
- “The car parking, cycle stand and pedestrian route shown on the approved drawing S/1234/05/PL-03C shall be provided and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude vehicular access to the car parking, cycle stand and pedestrian link”
- 48 The drawings that were approved on 13 March 2007 for the above proposal show the area at the front of the site (where the existing case has been constructed) as an informal pedestrian area. This area was also proposed for landscaping. In this respect, the proposal would conflict with that condition.
- 49 Although it is recognised that the unit would erode the informal concrete block paved pedestrian route that was shown on the drawing, this is not considered to be a sufficient reason to refuse the application, and was not indeed identified as an issue when the original café was approved. The Highway Officer has raised no objection to the loss of this feature. It is considered acceptable on highway safety grounds to share the vehicle entrance as proposed. On the other side of the access, a new informal path has been installed which would accommodate some of the pedestrian movement.
- 50 The loss of the landscaping buffer zone is also considered acceptable given the commercial nature of the site.

- 51 The development raises no adverse highway/parking concerns. Any remaining breaches of existing conditions will be investigated as a separate matter by our Enforcement Team, and an assessment will be made as to whether it would be expedient to take any action.

#### *Impact on the visual amenity of the area*

- 52 Policy EN1 (from SDLP) states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality.
- 53 The application site is located to the south of the industrial estate adjacent to the main access into the site. The PVC building and the wall/gates are visible from The Grove (the small access into the site) and from Park Road which is the main public highway.
- 54 As stated above the proposed extension is constructed entirely from bricks with PVC framework and windows. Although the building with the addition of the extension has the appearance of a residential conservatory extension, and is not a conventional commercial style building, it is not considered to adversely affect the character and appearance of the area to warrant an objection on visual amenity grounds due to the small scale nature of the building being extended. Although the side elevation is visible from the street scene it is not considered to be visually harmful given the context of the site.
- 55 The proposed store to the rear is not considered to be of any visual merit, however it is not considered unduly prominent or overbearing to warrant an objection on planning grounds.
- 56 The proposed extension and store are therefore considered to have no adverse impact on the character and appearance of the area and are considered to comply with the above aforementioned policies.

#### Other Issues

##### *Need*

- 57 The Town Council have also raised objection to the development on the grounds that there is no requirement for any more eateries in the town. Lack of need for additional facilities does not, however, constitute a justification for refusing permission. There is no requirement under planning policy for an applicant to demonstrate a need for the use.

##### *Flooding*

- 58 The Town Council has concerns regarding the increase of hardstanding at this site as currently there are flooding issues at nearby Sheridan Close caused by rainwater run off. It is not considered that this small unit would have flooding implications.

#### Access Issues

- 59 Accessibility is an important planning consideration that needs to be taken into consideration in the planning process. Policy EN1 of the Sevenoaks District



Council states, “the proposed development provides appropriate facilities for those with disabilities”

- 60 In this case, this is a service facility that needs to be accessible for all. The main access doorway in the unit is considered large enough to accommodate disabled access, in addition to this the doorway is also only marginally raised from the ground which is also considered to be acceptable and would provide suitable access into the premises.

### Third Party Objections

- 61 The main issues raised by the objectors have been adequately addressed in the report in terms of amenity, design, layout and appearance, road safety, and the adequacy of infrastructure of the proposal.
- 62 Other issues raised include blocking access to units A, B, C and D parking areas. These units are located to the south and south west of the application property. The proposed extension does not obstruct access to these specific units. Given the position of the extension at the front of the unit, this new addition is not actually fixed or next to any of the above aforementioned units, so it is considered that the proposal would not affect the maintenance of the buildings.
- 63 The other issue raised by objectors is the fact that the proposal would have an adverse economic impact on the surrounding businesses due to the competition that the café places on parking. It is important to note that KCC highways have raised no objection to the proposal on parking grounds. Although it is not disputed the fact that customers of the café do park in alternative places to the allocated parking spaces, this would be a management issue of the site, and not an issue for planning to resolve.
- 64 The Town Council has raised concern that the café has erected illegal signage on the, which is in complete contradiction to the Design and Access Statement published by the applicant, which states the facility is for the use of unit holders on the industrial estate only. The signage and indeed the security shutters are not being considered as part of this planning application, and any remaining breaches of existing conditions will be investigated as a separate matter by our Enforcement Team, and an assessment will be made as to whether it would be expedient to take any action. As the Local Planning Authority we have to assess the development as submitted to us.
- 65 The Town Council has also requested that the District Council consider the same course of action taken by Bexley Borough Council, which successfully obtained a confiscation order under the Proceeds of Crime Act 2002 against a resident who flouted planning rules. It is however not an offence to carry out development without planning permission. However, any unauthorised development is carried out at the developer's risk and the Council may take enforcement action either to demolish/remove the development or to alter it so that it becomes acceptable. In view of this, it is not considered that this is a valid reason to refuse the application.

### **Conclusion**

- 66 In conclusion, the development is considered to have no adverse impact on the amenities of adjacent properties or the visual amenities of the area, despite the concerns raised by the Town Council. In addition to this as the Highway Officer

has raised no objection to the development, it is considered that the proposal is acceptable on highway and parking grounds.

## **Background Papers**

Site and Block Plans

Contact Officer(s): Vicky Swift Extension: 7448

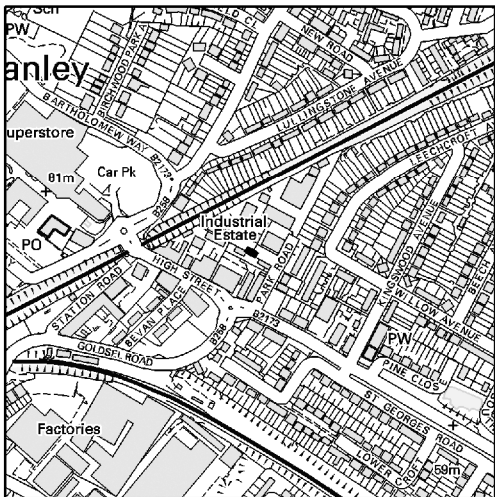
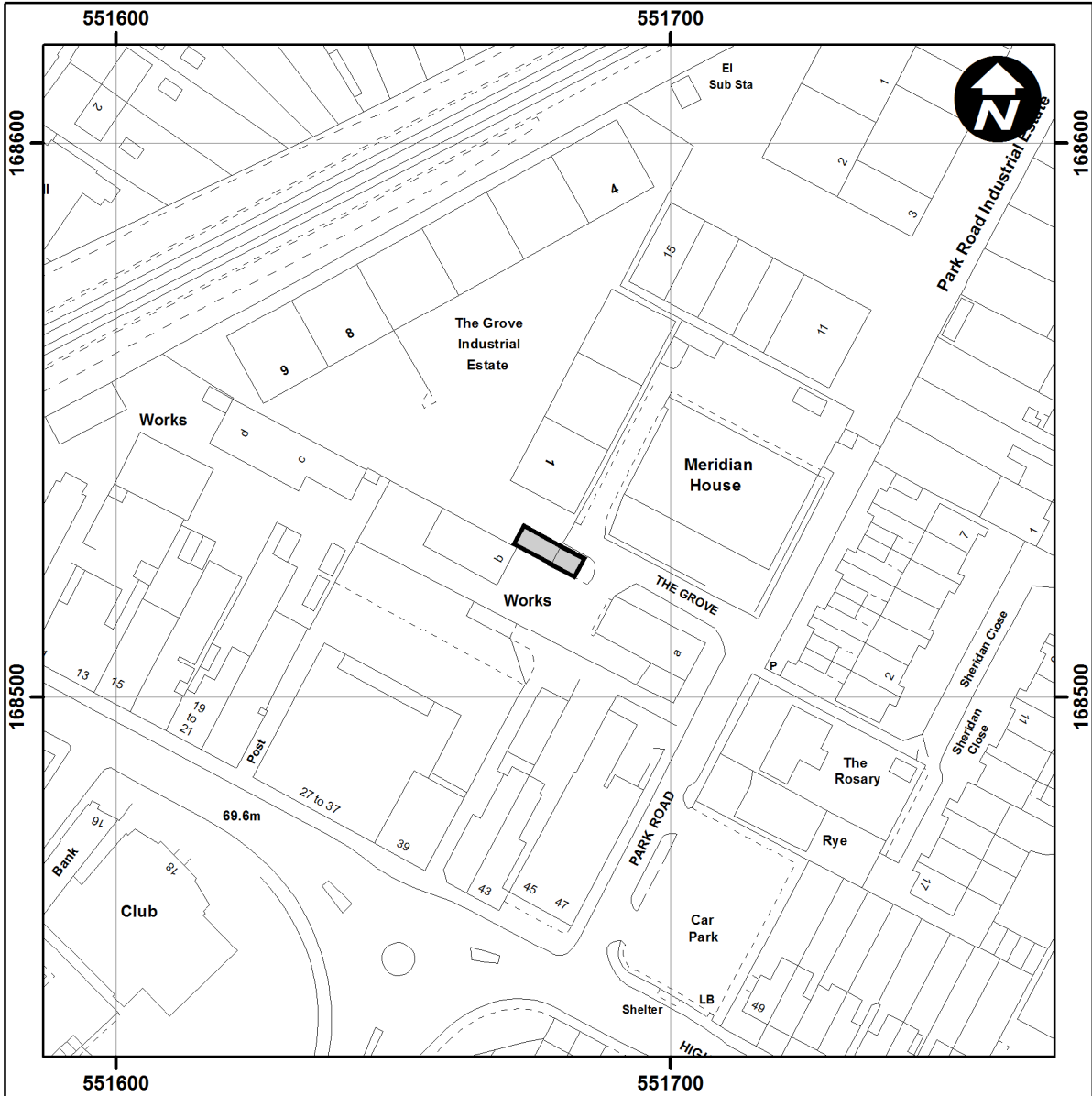
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LN4OSKBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LN4OSKBK8V000>



# Site Plan

Scale 1:1,250

Date 26/06/2013



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**BLOCK PLAN**

